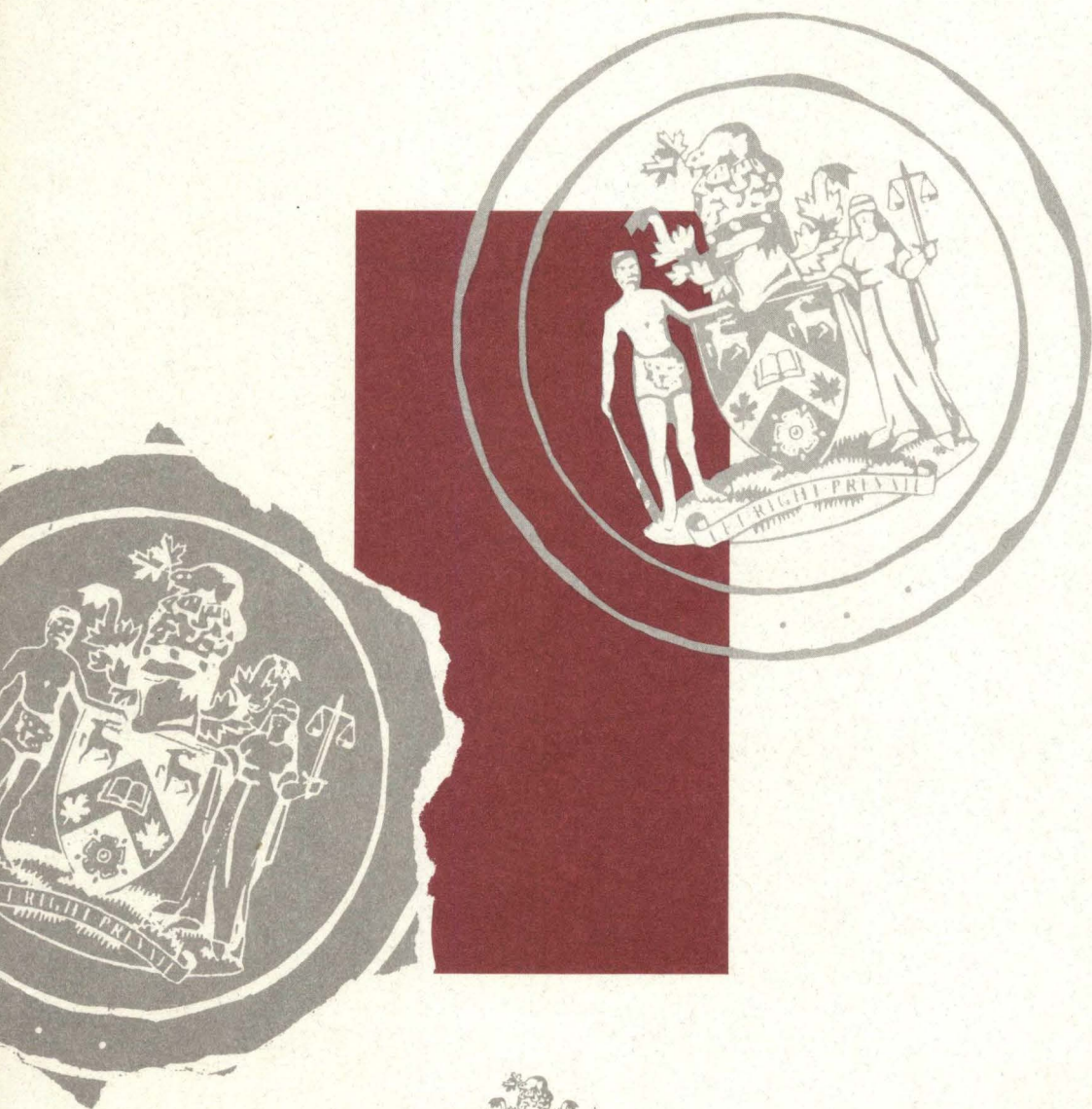


# Annual Report 1991



The Law Society  
of Upper Canada



LAW SOCIETY OF UPPER CANADA  
ANNUAL REPORT 1991

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## INTRODUCTION

THE LAW SOCIETY OF UPPER CANADA is the governing body of Ontario's lawyers and is responsible for their education, licencing, supervision and discipline. The Society's affairs are conducted by 44 elected and appointed Benchers, 40 of whom are chosen by their colleagues during elections every four years, four are appointed by the Lieutenant Governor-in-Council. In addition, there are also several ex-officio Benchers.





## TREASURER'S MESSAGE



*James M. Spence*

ONE YEAR AGO, when I first reported to the Annual Meeting as Treasurer, I characterized the work then underway in the Law Society as a continuing program of responsible reform. The Benchers have carried this work forward during last year and this year. We have undertaken and approved a plan for the implementation of the major reforms to our discipline, complaints and competence procedures which we endorsed a year ago this past June. These reforms are important to our profession and the public and will be the subject of discussion at our Annual Meeting on November 13, 1991.

Our committee on Women in the Legal Profession has carried on its innovative work with the production of its report on "Transitions in the Legal Profession" dealing with, among other things, discrimination against women in the profession and prospects for improvement in the opportunities for women in the law. Related work, concerned with sexual harassment and sexual abuse, is underway. Through our committee on Equity in Legal Education and Practice we are addressing the issue of the place in our profession of persons of native and visible minority groups. As a step in this effort, we have initiated awards to members of these groups in connection with their legal education. These awards are to be presented by His Royal Highness The Prince of Wales on the occasion of his becoming an Honorary Bencher at a Special Convocation on October 25, 1991.

Our new Bar Admission Course is now fully launched and we are

engaged in the inevitable and necessary review of its early operation to identify areas for refinement and improvement. We also look forward to implementing changes approved a few months ago to our articling system and to developing new approaches to continuing legal education.

Our efforts to improve the accessibility and accountability of the work of the Law Society continue. We are experimenting with further refinement of our open Convocation process, so that even more information will be available. Our Communications Committee has undertaken new initiatives to foster a better understanding of our activities among the profession and the public.

We are also engaged in reviewing proposals concerning the proper role of paralegals in the provision of legal services. We are addressing this important issue in the context of the larger issue of access to legal services for that segment of the public that does not qualify for legal aid.

Other important initiatives of the Law Society are mentioned in this report on our activities over the past year, as part of the reports of the work of our various committees. Along with these reports, this Annual Report also presents our audited financial statements and general information about the Law Society and its staff.

The last year, and the months since then, have seen many changes at the Law Society among both the Benchers, in part through our quadrennial election, and the senior staff.

Three Benchers became life Benchers having been elected at four consecutive elections. John D. Ground, Patrick G. Furlong and Gordon H.T. Farquharson have each served with distinction for sixteen years and it is encouraging to know that we can count on their continuing participation in the work of the Law Society. Three Benchers have been appointed to judicial office since our last Annual Report. Mr. Justice Bruce Noble, Madam Justice Sandra Chapnik and, most recently, Mr. Justice Lee Ferrier, our past Treasurer, were appointed to the Ontario Court of Justice (General Division). We congratulate them on their appointments and we wish them every success in their work as members of the judiciary of this province.

I wish to express our thanks to those former Benchers who, at least for the moment, have retired from active service in Convocation. Hugh Guthrie (Guelph), Bernard Shaffer (Thunder Bay), Jeffrey Lyons (Toronto) and Ian Outerbridge (Toronto) have each served as Benchers with dedicated effort for a good many years. Roderick Ferguson (Midland) became a Bencher in 1987 and Jane Harvey (Toronto) and Thomas Carey (Mississauga) became Benchers in 1988. We look forward to our continued association with these good friends of the Law Society.

As a result of the quadrennial election and vacancies occurring dur-

ing the period, we have had the opportunity to welcome many new Benchers. From Toronto we have acquired Carol Curtis, Neil Finkelstein and Joan Lax and, most recently, Stephen Goudge. Our new Benchers from outside Toronto are Lloyd Brennan (Ottawa), Susan Elliott (Kingston) Abraham Feinstein (Ottawa), Fatima Mohideen (Brantford), Ross Murray (Thunder Bay), Julianne Palmer (Peterborough) and David Scott (Ottawa).

Their arrival has provided us with the benefit of new perspectives and energies and we look forward to their continuing contribution to the work of the Law Society.

Two of our lay Benchers, June Callwood (Toronto) and Ross Hall (Grimsby), concluded their terms of service during the year. Their service to the Law Society was of special value to our profession and the public and we will remain grateful that they were prepared to take on the demanding public responsibility that accompanies their role in the Law Society.

We have two new lay Benchers, Shirley O'Connor from Sioux Lookout and Nora Angeles Richardson from Toronto and we welcome them to their new responsibilities in the community of the Benchers.

Our senior staff are an important source of strength and leadership in the Law Society. We are very pleased to welcome several new senior staff members: Gavin MacKenzie, Senior Counsel, Discipline; James Yakimovich, Director, Audit & Investigation; and Gemma Zecchini, Director, Communications. Just recently, John Grieve, Director of Practice Advisory Service, joined our staff. We look forward to their work with us in the future.

We were very sorry to lose the valuable services of Robert Anderson who passed away on March 22, 1991. Mr. Anderson was responsible for the establishment of our Audit program and had been our Director of Audit since the inception of that program in 1962.

Important challenges face us in the Law Society now and others will arise during the course of the coming year. It is gratifying to know that we have the assistance of energetic and dedicated Benchers and staff, as well as the support of our members who are always prepared to help in the work which is the responsibility of our profession.



James M. Spence  
Treasurer

October 1991







## MEMBERSHIP STATISTICS

### 1. Members in good standing *(as at June 30, 1991)*

Members in private practice			
Sole practitioners	4,487		
Partners	6,085		
Employees	2,750		
Associates	2,113	15,435	
Members otherwise employed in Ontario:			
Education	222		
Government	2,096		
Other Employment	2,496	4,814	
Members not employed in Ontario:			
Retired	2,069		
Residing out of province	1,151	3,220	
Total Members in Good Standing		<u>23,469</u>	

### 2. Other membership data

Honorary members	13
Life members	440
Members excused fees	523

### 3. Admissions and total membership (10 year history)

YEAR	ADMISSIONS				TOTAL MEMBERS
	MALE	%	FEMALE	%	
1982	701	67.1	344	32.9	15,742
1983	686	69.3	304	30.7	16,278
1984	688	67.1	337	32.9	16,991
1985	666	63.4	384	36.6	17,756
1986	689	62.1	421	37.9	18,588
1987	672	59.0	467	41.0	19,442
1988	672	57.3	501	42.7	20,417
1989	690	58.4	492	41.6	21,477
1990	695	59.6	468	40.2	22,501
1991	735	60.1	487	39.9	23,469

### 4. Memberships, 1991 and 1990

	1991		1990	
	NUMBER	%	NUMBER	%
Male	17,966	76.6	17,466	77.6
Female	5,503	23.4	5,035	22.4
Total	23,469	100.0	22,501	100.0

### 5. Membership, by age range and sex, 1991

AGE RANGE	MEMBERS		PER CENT	
	Male	Female	Male	Female
Under 30	916	713	56.2	43.8
30—39	5,750	2,972	65.9	34.1
40—49	6,025	1,222	83.1	16.9
50—65	3,596	230	94.0	6.0
Over 65	1,679	366	82.1	17.9
	17,966	5,503	76.6	23.4

### 6. Membership geographical distribution, 1991

	Fee paying Members		Life Members		Excused Fee		TOTAL	
	Male	Female	Male	Female	Male	Female	Male	Female
Toronto	8,613	3,054	200	10	197	12	9,010	3,076
Other Ontario	7,620	2,100	211	7	259	13	8,090	2,120
Canada Outside Ont.	574	209	10	0	34	3	618	212
Other Countries	227	94	9	0	12	1	248	95
TOTAL	17,034	5,457	430	17	502	29	17,966	5,503



## 1991 ELECTION OF BENCHERS

IN APRIL and May 1991 eligible members of the profession cast ballots in the quadrennial election of benchers. Eighty candidates, 44 from Metro Toronto and 36 from outside Toronto, vied for the forty positions. After the 12,399 ballots had been counted, ten new benchers were elected, five of whom were women. Allan Rock of Toronto garnered the most votes of any candidate, receiving a favourable response on 49.8% of the ballots. Frances Kiteley, also of Toronto, ran a close second with 45.8% of the vote.

One quarter of Convocation's membership is now comprised of female benchers, a figure that compares favourably to provincial legislatures and the House of Commons. One-third of elected benchers are sole practitioners or practise in small firms of between two and four lawyers. Twenty-two per cent of benchers come from firms of between five and 25 lawyers, while a further 27% practise in firms with over 25 lawyers.

Fifty-three per cent of the Ontario bar cast ballots, somewhat less than the 65% goal set by the Law Society, although a number of counties and districts exceeded this goal namely, Brant, Bruce, Dufferin, Frontenac, Huron, Manitoulin, Peterborough, Renfrew, Thunder Bay, Wellington and the Borough of East York. The greatest response was received from members called to the Bar between 1971 and 1985. The lowest turnout was from members with five or less years of experience, of whom only 48% voted.







## COMMITTEE REPORTS

### ADMISSIONS

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Chair: Patricia J. Peters, Q.C.

#### *Calls and Admission*

From July 1st, 1990 to June 30th, 1991, 55 applications to transfer to practice in Ontario from other Canadian provinces were received, they are as follows:

Alberta	10
British Columbia	5
Manitoba	3
New Brunswick	1
Newfoundland	1
Northwest Territories	1
Nova Scotia	8
Prince Edward Island	1
Quebec	23
Saskatchewan	2

Under Regulation 4, which governs the transfer to practice in Ontario of members of other Canadian provincial bars, 47 applicants were called to the Bar and admitted as solicitors.

Under Regulation 5, which governs the transfer of admission of law teachers, 4 professors were called to the Bar and admitted as solicitors.

Under Regulation 6, which governs the granting of Occasional Court Appearances, 37 applicants were called to the Bar and admitted as solicitors.

## **CERTIFICATION**

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Chair: Allan M. Rock, Q.C.

The Certification Board continues to certify Specialists in the areas of Civil Litigation, Criminal Litigation, the combined specialty of Civil and Criminal Litigation, and Family Law. As at June 30, 1991, there were a total of 540 certified Specialists (excluding Specialists that have retired or been appointed as Judges since the issuance of their certificate) in Ontario.

Specialty Committees in the following areas of law have been established, and a number have completed the drafting of Standards and are ready or nearly ready to receive applications:

- Bankruptcy and Insolvency Law
- Entertainment Law
- Environmental Law
- Immigration Law
- Intellectual Property Law
- Labour Law
- Workers' Compensation Law

The Board is also considering the possibility of striking Specialty Committees in other areas of law.

The Board has approved in principle a proposal that would require Specialist applicants to complete a certain number of pre-approved education courses in order to meet the education component of the Standards for certification.

Of particular concern to the Certification Board is the cost of the Program. Although the Program is expected to be self-funding, it is estimated that it will be in a deficit position until 1994. The Board is currently exploring ways to cut costs and increase revenue, including the introduction of an annual fee, the first of which will be levied in September 1992.

The Certification Board will be formulating concrete recommendations to create awareness about the Program among both the profession and the public. Such initiatives may include the creation of a Dial-a-Law tape to explain the Program to the public, and arrangements with the Bell Telephone Company to allocate a separate section of the Yellow Pages for advertising by Specialists.

## CLINIC FUNDING

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Chair: Colin Campbell, Q.C.

### *Independent Community Legal Clinics*

Independent community legal clinics played an increasingly important role in the Ontario Legal Aid Plan in the last fiscal year.

Under the clinic funding Regulation, the Clinic Funding Committee is responsible for funding and policy affecting community clinics. In accordance with the Regulation, and the clinic certificate signed on behalf of the Plan and by each clinic, community clinics are administered by locally elected boards of directors representative of the community the clinic serves. The boards must establish financial eligibility guidelines and case priorities for the work of the clinic, and are financially accountable to the Clinic Funding Committee.

The funds allocated for clinic funding increased to \$26.8 million in 1990/91 from \$22.1 million in 1989-90.

Since 1976 when 13 existing clinics were first funded by the Ontario Legal Aid Plan, the number of clinics has grown to 70 across the entire province. Three new clinics were opened in 1990/91: Aboriginal Legal Services of Toronto, Northumberland Community Legal Centre in Cobourg, and a one-year pilot project for the Elliot Lake and Northshore area.

In addition to case-related services, clinics continue to fulfill their special mandate under the Regulation "to encourage access" to legal services and to provide services "designed to promote the legal welfare" of their communities. Many clinics initiated community legal education and preventive law activities, assisted with significant law reform proposals, and engaged in widespread efforts to create better access to the legal aid system and legal services. The Committee allocated special funds to clinics for legal education and outreach projects, such as videos, posters and "how-to" booklets, and a public legal education and information clearinghouse. The federal Department of Justice reimbursed the Clinic Funding Committee for costs associated with these public legal education projects, a total of \$282,927 for the period April 1, 1990 to March 31, 1991. These funds also contributed to the establishment of a Public Legal Education and Information Clearinghouse at Community Legal Education Ontario in Toronto and a Native Community Legal Education Centre.

The Clinic Funding Committee has identified a need for an operational review of the clinic system. Three representatives from each clinic, including at least one Board member, were invited to attend a weekend Planning Conference in June, 1990. The purpose of the Conference was to discuss the goals of the review, identify the stakeholders and the issues to be addressed and to recommend guidelines for the review process.

The Clinic Funding Committee approved funding for the establishment of a Clinic Resource Office (CRO) to provide legal and technical support services to clinic practitioners in the main substantive areas of clinic practice. The CRO staff will provide legal research and training for clinic caseworkers throughout the province and provide legal resource materials for clinic practice, and assist in information sharing and reduce duplication of effort by clinic workers across the province.

The Clinic Funding Committee invited representatives from clinics serving francophones to participate as members of a consultation committee on French language services. The committee submitted policy recommendations to the Clinic Funding Committee relating to the delivery of French language services in the clinic system in the fall of 1990.

Each year, the clinic funding staff coordinates the production of the *Journal of Law and Social Policy*. The *Journal* is devoted to poverty law research by community legal clinic practitioners, the private bar, the academic community and other organizations concerned with legal reform. Volume 6, published in December, 1990, included these topics: Charter and poverty law, immigration policy, human rights legislation relating to injured workers and the Supports to Employment Program (STEP).

#### *Community Legal Clinics - 1990 Statistics*

Files open	31,713
Summary advice	136,975
Referrals to:	
private bar	15,388
OLAP	11,459
social agencies	5,294
clinics	9,719
other	25,725
	<hr/> 67,585
	236,273
Public legal education sessions	2,489
Legal education publications	333
Briefs/submissions to public bodies	189

## **COMMUNICATIONS**

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Chair: Colin McKinnon, Q.C.

### *Media Policy*

As part of a larger effort to foster openness and accountability, Convocation adopted a media policy in April, 1991 which established guidelines formalizing the Law Society's relations with the media. The Society also



approved a list of spokespersons authorized to respond to the media and selected issues and areas.

#### *Dial-A-Law*

The Dial-A-Law Service processed 379,917 calls (an average of 1,040 calls per day) from July 1, 1990 to June 30, 1991.

In April, 1990 the Society inaugurated its French Dial-A-Law programme - Le téléphone juridique. This service has offered free general legal information in the French language to 4,121 Ontario residents from July 1, 1990 to June 30, 1991.

A new Cantonese Dial-A-Law service is planned and will be implemented after the Communications Department's move in October, 1991. It is expected that the initial offering will consist of fifty of the most popular topics, with additional topics being added as demand increases and resources permit. Plans are still underway for the launch of a Portuguese service.

The Society is continuing its "listenability" review of the Dial-A-Law tapes. This review will ensure that the taped messages meet plain language requirements and are understood by our target audiences.

#### *Lawyer Referral Service*

For the period July 1, 1990 to June 30, 1991 calls to the Lawyer Referral Service totalled 149,251. The Service receives an average of 604 calls each day. Calls to the system have increased steadily over the past few years and as a result, a system capacity review was undertaken. This study indicates a need to expand the Wats (toll-free) capacity of the Service. This expansion is planned for the fall of 1991.

#### *Voluntary Pro Bono Service*

The Society adopted the report of the Voluntary Pro Bono Sub-Committee which has recommended that a Pro Bono Lawyer Referral Service be created on a twelve-month pilot project basis serving Middlesex County and the Regional Municipality of Hamilton-Wentworth. The objective of the pilot project is to establish a formal pro bono delivery system that would allow volunteer lawyers to provide legal services free of charge to non-profit organizations that meet established eligibility criteria. The service will be administered by the Lawyer Referral Service and is expected to be operational by the end of 1991.

#### *Other Programmes*

In an effort to reach vulnerable target groups not otherwise regularly exposed to traditional media, thousands of the Society's brochures were



distributed to law firms, MP and MPP offices, libraries, community information centres, women's shelters, legal aid offices, legal clinics, and court offices.

A brochure on legal fees and a general information booklet providing an overview of the Society and the programmes it offers has been developed and distributed.

## **COUNTY & DISTRICT LIAISON**

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Chair: Jeffrey Lyons, Q.C. (to May 1991)

Rino Bragagnolo, Q.C. (from May 1991)

The Committee ensures that the County and District Law Associations, through their Executive, are kept informed of the issues under consideration by the Society. The Committee also functions as a vehicle for the County & District Law Associations to bring their concerns to the attention of the benchers. In this way, each group has the benefit of regular informal exchanges on matters of mutual concern as well as the opportunity to seek or provide input on a variety of topics.

During the last fiscal year, the County & District Law Presidents' Association executive reported a number of resolutions passed by the Association to the Committee, including resolutions regarding unsupervised paralegals and the closure of registry offices.

The Association has also requested that Convocation take a fresh look at bencher election reform proposals and has asked that representatives from the Association be included on the Committee established for this purpose.

## **DISCIPLINE**

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Chair: Paul Lamek, Q.C.

### *Statistics*

During the fiscal year a total of 211 complaints were issued by the Society alleging professional misconduct or conduct unbecoming a barrister and solicitor.

A total of 86 reprimands were dealt with at the committee level and, in addition Convocation dealt with 33 matters which resulted in the following dispositions:

Reprimands	8
Resignations	4
Suspensions	9
Disbarments	12

### *Special Committee on Discipline Procedures*

In October 1989, Convocation appointed a special committee of benchers which was chaired by Roger D. Yachetti, to consider current discipline procedures and to recommend how these procedures could be improved.

The committee's final report was approved by Convocation, in a slightly revised form on September 7, 1990. On the same date, Convocation struck a committee which was chaired by Dennis R. O'Connor to monitor and make recommendations on the implementation of Convocation's reports concerning reforms to the discipline, complaints and professional standards processes.

The recommendations of the Yachetti committee as approved by Convocation are designed to improve public access to the process, to increase lay participation in the process, and to ensure that the process is fair to both the complainants and solicitors involved.

The committee made the following recommendations, among others:

1. The role of the Law Society of Upper Canada as a self-governing body must be maintained and with it the power to discipline its members.
2. The integrity of the discipline procedure requires that Society staff proceed with investigations and discipline hearings independently of the benchers, subject only to general policy guidelines.
3. A new committee should be created to authorize formal discipline complaints. This committee should consist of one elected bencher, one lay bencher and one non-bencher lawyer.
4. A discipline hearing panel shall have the authority to impose interim suspensions, and shall also have the authority to impose a range of penalties including an admonition, a reprimand, a suspension, permission to resign, and disbarment.
5. An appeal from a discipline hearing panel's findings as to misconduct and penalty should lie to a designated appeal panel of Convocation consisting of seven benchers, with a quorum consisting of five benchers one of whom shall be a lay bencher.
6. Copies of authorized discipline complaints should be made available to the public upon request.

7. All complaints against benchers will be investigated and prosecuted by outside counsel who will be independent of both the benchers and the Society's staff.
8. The policy formerly adopted by Convocation prohibiting lawyers from bencher firms from appearing as counsel before discipline panels should be abandoned. A bencher shall not sit on any discipline matter where counsel of record is a partner, associate or employee of that bencher's law firm.

The O'Connor committee met on ten occasions between November 1, 1990, and April 7, 1991, and submitted a detailed interim report which was considered and approved in a slightly revised form at a special Convocation convened for that purpose on May 31, 1991. Those recommendations of the Yachetti committee that do not require legislative amendments (including those numbered 1, 2, 6, 7, and 8 above) have been implemented. Draft legislation designed to implement those recommendations requiring legislative amendments is expected to be submitted to the provincial government for its consideration in the near future.

### *Complaints*

The Law Society received approximately 2,400 complaints in the first six months of 1991. This number represents a significant increase over previous years for a similar period.

Preliminary investigations of complaints are conducted by an exchange of correspondence, telephone calls and on occasion, visits to the member's office. Standard procedures have been established with time deadlines related to each stage of the investigation. Computer generated ticklers enable the staff to track the progress of each file. Our statistics show that apart from more complex matters most investigations are completed within a six month period.

Our records for the past twelve months show that a lawyer's failure to communicate is the most common complaint. Other concerns in order of frequency are as follows: failure to fulfil financial obligations, delay, negligence, failure to report to the client, fees, failure to comply with undertakings, failure to follow clients instructions, conflict of interest and conduct unbecoming of a solicitor.

The Society received an equal number of complaints in areas of real estate law and civil litigation. Together they accounted for 66% of all complaints. Matters relating to matrimonial law and wills/estates represented another 25%. The remainder were distributed over other areas such as criminal, administrative and corporate/commercial law.



### *Recent Developments*

**Telephone Complaints Resolution (TCR):** In recognition of the fact that the resolution of many complaints can be successfully mediated without an exchange of correspondence between parties, staff in the Complaints Department now deal with a variety of matters largely over the telephone. TCR is used only in circumstances where the dispute can be readily resolved and where it is unlikely that the lawyer's conduct would result in formal disciplinary action by the Society. Early indications suggest that this procedure will result in the speedy and effective resolution of a large number of complaints.

**Reform Implementation Committee:** This Committee was formed in 1990 to develop a strategy for the implementation of various reform initiatives proposed in the areas of complaint handling, discipline and professional standards. In May 1991, Convocation approved a number of the Committee's recommendations, including a procedure for dealing with complaints. This procedure will place increased emphasis on the efforts of staff to mediate and resolve disputes.

The most significant proposal calls for the appointment of a Complaints Resolution Commissioner who will review the actions of staff in the event that either the complainant or the lawyer complained of disagrees with the resolution proposal. The Commissioner will be appointed by the Law Society on the recommendation of a Selection Committee composed of a Lay Benchers, the Treasurer, and representatives of the Provincial government (or their designates).

With the creation of this position, the existing Complaints Review function performed by Lay Benchers will be incorporated into the responsibilities of the Commissioner.

### *Audit & Investigation*

**Ottawa Branch Office:** In the autumn of 1991, the Department of Audit & Investigation will establish a branch office located at the Ottawa Bar Admission Course premises on Eccles Avenue. The location will be staffed by an Auditor and Audit Examiners, all of whom will be bilingual. This measure will enable the Society to perform audits according to the language preference of each member.

**Form 2 Certification:** A study has been completed recommending an amendment to Form 2 such that a member will "certify" a document to be accurate, as opposed to the current practice of a commissioned declaration. This change was made in response to representations about the difficulty experienced by some members who are not within close proximity to a

commissioner of oaths. This new policy will be effective upon amendment of Regulation 573.

## **EQUITY IN LEGAL EDUCATION & PRACTICE**

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Chair: Harvey Strosberg, Q.C.

The Committee on Equity in Legal Education and Practice was established for the purpose of implementing recommendations that issued from a report of the same name.

The report, unanimously adopted by Convocation in February 1991, called upon the Law Society and its members to adopt a policy acknowledging the diversity of our community and making a commitment to fair treatment and opportunity for all Ontario residents. The policy formally recognizes the Law Society's obligation to govern the profession in a socially responsible manner by ensuring that services are provided by and for members of aboriginal and visible minority groups.

The nature of the action to be taken by the committee is reflected in the following recommendation in the report:

The Law Society, in cooperation with the law schools, should develop strategies for attracting law students from among aboriginal and visible minority groups that are under-represented in the legal profession and provide such students with an effective network of support, both financial and otherwise, during law school, the bar admission course and the first years of practice.

Such support could include:

- bursaries, scholarships or loans
- nomination by law firms or law associations of mentors or advisors to provide guidance and moral support to such students during the school years
- arrangements to assist with the placement of such students as law clerks and articling clerks
- assistance in securing employment during the first two years following the call to the bar

## **FINANCE**

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Chair: John D. Ground, Q.C.

The Financial Statements for the Society's three funds are accompanied by the Auditors' unqualified opinion. The General Fund includes all professional and administrative operations of the Law Society, including the Great Library and Legal Education, which consists of the Bar Admission



Course and Continuing Legal Education. Separate funds are maintained for the Lawyers Fund for Client Compensation and the Consolidated Errors and Omission Insurance Fund.

### *General Fund*

The significant shortfall in enrolment in Continuing Legal Education resulted in a deficit in that program. However, through curtailment of costs in other areas, a small surplus in the general fund of \$172,843 was realized on total revenues of \$31,043,693.

There is continued concern that revenues will be restricted in several areas for the upcoming fiscal year as Continuing Legal Education will continue to suffer from reduced enrolments. In addition, the Law Foundation which contributes in excess of \$3,000,000 towards the Bar Admission Course and County and District Libraries, is facing a 40% decline in its income earned on balances in lawyers' mixed trust accounts. This is combined with the fact that the provincial government withdrew its funding grant to the Bar Admission Course for 1991-1992. In 1990-91 that grant amounted to \$937,900.

As a result of this reduction in funding, the Society took steps this year in its budgeting to defer certain costs in the Bar Admission Course, but ultimately was required to pass some of the cost on to students and members by increases in both tuition fees and annual fees.

The annual fees for the 1991-1992 fiscal year with comparative fees for the past four years are as follows:

	<u>1991-92</u>	<u>1990-91</u>	<u>1989-90</u>	<u>1988-89</u>	<u>1987-88</u>
Annual Fee	\$781	\$678	\$601	\$593	\$478
County Libraries	\$68	\$62	\$58	\$54	\$40
Lawyers Fund For					
Client Comp.	\$1	\$26	\$52	\$145	\$225
Legal Aid					
Admin. Expenses	\$240	\$185	\$183	\$188	\$175
<i>TOTAL</i>	<i>\$1,090</i>	<i>\$951</i>	<i>\$894</i>	<i>\$980</i>	<i>\$918</i>

During the year the major building addition at Osgoode Hall which adds two and one half storeys, or about 34,000 sq. ft. to the Society's premises, was substantially completed. Included in the Balance Sheet of the General Fund is \$12,802,537 of the approximately \$14,800,000 project. Funding for the project was obtained through a line of credit with the Toronto-Dominion Bank, of which \$6,500,000 had been drawn at June 30, 1991.

### *Errors and Omissions Insurance Fund*

This statement consolidates the operation of the Lawyers' Professional Indemnity Company, the wholly owned insurance company operated by the Law Society.

The recession in Ontario has resulted in greater than anticipated claims this year. Total reserves for unpaid claims stand at \$81,926,434, up from \$61,439,517 in 1990. The provision for claims for the year increased from \$20,198,758 to \$42,265,069 due to two factors; first an increase in the number of claims from 2,345 to 3,365 (up 43%) and an increase in average values from \$14,800 to \$18,700 (up 26%).

The fact that the Society had been able to build up a surplus in the fund in prior years has cushioned the impact of this increase to a large extent. A range of options are being examined for managing the fund during the next few years which may include an increase in the levy as well as changes in deductible levels.

### *Lawyers Fund for Client Compensation*

While the fund continues to retain a significant balance at \$32,334,427, total gross claims against the fund have increased from \$7,941,685 to \$21,307,133. When the limits (currently \$100,000 per claim) are applied to existing claims, total payments from the fund will not exceed \$11,704,962.

In view of the fact that the claims take some time to settle, and given that there are other pressures on the annual fees, it was resolved to set the Compensation Fund Levy at \$1.00 for the 1991-92 fiscal year.

## **FRENCH LANGUAGE SERVICES**

Chair: Denise Bellamy

Launched on February 2, 1990, the French Language Services Programme is in its second phase of implementation. Notable progress has been made in the provision of French language services in the areas of Legal Education, Public and Member Information and generally throughout the Law Society. Bilingual positions have been identified and are being filled as circumstances, space and budgets permit.

Funding of the Bar Admission Programme, which accounts for a large portion of the Committee's expenditure, was secured from the Law Foundation of Ontario, the Department of the Secretary of State and the Ministry of the Attorney General, Government of Ontario. Applications to these three organizations have been renewed for 1991-92 to ensure the maintenance of the Bar Admission Programme in French.

The Dial-A-Law Programme in French (Téléphone juridique) con-

tinues to attract a positive response from the media, the public and the profession.

A new programme designed to enhance bilingual employees' French language skills was launched in April, 1991.

Promotional and advertising efforts are being intensified in consultation with the Communications Department to increase public awareness of services available in French.

## **INSURANCE**

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Chair: Patrick G. Furlong, Q.C.

The Lawyers' Professional Indemnity Company (LPIC), an insurance company owned by the Law Society, commenced operations as at July 1, 1990 to become the Insurer for the Society's Mandatory Errors and Omissions Program. The creation of LPIC is one in a long line of Society initiatives dating back to the 1970's designed to foster the development of the Errors and Omissions Program with such goals as:

- a) long term stability in the cost and availability of Professional Liability Insurance;
- b) access to worldwide professional liability reinsurance markets and;
- c) provision of coverage that may not be commercially available under a policy wording within the direct control of the Society.

Under LPIC's inaugural policy, copies of which have been distributed to all practising lawyers, each insured member is afforded coverage with respect to services rendered in the member's capacity as a lawyer, anywhere in Canada. Lawyers insured under the LPIC policy who practise in other Canadian jurisdictions will likely experience a reduction in their overall insurance levy expenses as the need to continue paying additional Errors and Omissions levies in these jurisdictions is affected by the LPIC coverage.

The Mandatory Program continues to provide each insured member with a \$1,000,000 "per occurrence" limit of liability. Effective January 1, 1991, and as a measure to assure the continued viability of the Program, coverage under the LPIC policy became subject to a \$2,000,000 annual aggregate limit of liability per member.

The past year has been witness to a dramatic increase in both the frequency and severity of claims reported under the E&O Program.



Fuelled, in part, by the hectic activity in the real estate market in the years preceding the recession and by the sudden and dramatic downturn in that market which followed, the number of claims for the July 90/91 period increased by 43.5% to 3,365. The cost of these claims rose to a new high of \$62,900,000. The magnitude of these increases was such that the Fund at June 30, 1991 shows a deficit of \$1.4 million dollars after provision for all outstanding claims. Although this development places the Fund in no immediate jeopardy, it does mandate a program of prudent financial planning to restore a satisfactory surplus position over the next few years.

## **LAWYERS FUND FOR CLIENT COMPENSATION**

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Chair: Clayton Ruby

During the twelve months, July 1st, 1990, to June 30th, 1991, the amount in the Lawyers Fund for Client Compensation increased from \$29,800,935 to \$32,334,427. The outstanding claims still to be processed at June 30, 1991, amounted to \$21,307,133. Due to the recession there has been a large increase in claims. During the 1990-91 fiscal year claims rose to \$14,566,857 as compared to last year when during the same period new claims totalled \$2,308,376.

Substantial interest of \$3,114,192 was earned on the investments of the Fund and with the \$1 levy for this fiscal year sufficient funds are on hand to meet estimated expenses, including increased grants from the Fund.

The Committee has approved a publicity campaign to make the Fund more accessible to clients of disbarred lawyers, who often do not know that there is a discretionary fund of last resort that may cover their financial loss. The campaign will also target the profession because there is a need for lawyers to advise their clients about the Fund and the fact that it is supported solely by contributions from lawyers in Ontario.

In addition, the Committee is having its documents rewritten according to plain language standards to ensure that that information is easily understandable to claimants who might otherwise require a lawyer to interpret complicated legal language. The Committee has simplified its name to the Lawyers Fund for Client Compensation.

The Committee is considering new proposals for reducing defalcations and for expediting the processing of claims.

The Committee recently decided that Referees appointed by the Society should better reflect the demographic composition of Ontario. Convocation appointed two women and the first Native Canadian in Ontario as Referees to hear claims to the Fund.

## **LEGAL AID**

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Chair: Thomas Bastedo

### *Green Form Pilot Project Extended*

In July 1991, the Plan will expand its Green Form Pilot Project to Simcoe and Middlesex Counties. The programme has been in place in the Kitchener area since 1988 and is based on the English Green Form system with some modifications. The service allows clients to attend upon a lawyer who determines financial eligibility. If financially eligible, the lawyer may provide up to four hours of legal assistance subject to the restrictions that neither court appearances nor advice on real estate matters are covered.

### *Staff Duty Program*

At last year's annual meeting, Ontario reported that, due to financial considerations, it was considering the expansion of its staff duty counsel system from Metropolitan Toronto to communities adjacent to Toronto. The Plan, however, undertook to work with the private bar in these two regions in order to determine whether the delivery cost could be reduced while still utilizing the services of the private bar. Following a six month trial period, the Plan concluded that these services can be delivered as economically by the private bar as by staff lawyers provided the utilization of duty counsel is properly managed by the Plan in conjunction with the bar and other participants in the justice system.

### *Delivery of Family Law Services*

In January the Plan completed its study relating to the delivery of Family Law services in Metropolitan Toronto. The investigation was commenced because there was a concern that legally aided clients, particularly women, in Metropolitan Toronto were encountering difficulty retaining counsel in Family Law matters. The committee that was struck to conduct the study gathered data which supported the view that legally aided clients have some difficulty retaining counsel in Metropolitan Toronto. Some members of the committee were of the view that the Plan should hire staff lawyers to resolve the problem. The majority, however, concluded that the judicare system could still be relied upon provided certain improvements are made. Among other things, it was recommended that:

1. The Civil Tariff fees be increased.
2. The Tariff be amended so that it corresponds more closely to the pattern of the usual Family Law case.
3. Billing procedures be simplified.



4. Disbursement approval procedures be simplified.
5. The timely payment of lawyers accounts be considered a priority.
6. The Plan conduct training sessions for lawyers representing battered women.

### *Mediation*

The Plan embarked upon an ambitious programme of training Area Directors to conduct five way meetings with legally aided clients and lawyers. The Area Directors are being trained to develop mediation skills. It is hoped that by holding such meetings many cases might be amicably resolved, while in others, at least some of the issues may be clarified with a view towards reducing the cost of litigation. The Plan is cognizant of the concern that battered women will be at a disadvantage when attending five way meetings. The meetings are, therefore, not compulsory and will not be held in cases where domestic violence is involved.

### *Immigration and Refugee Matters*

The number of immigration cases funded by the Plan continues to grow. In the fiscal year 1990-91, 15,247 immigration cases were completed on legal aid certificates compared with 8,583 cases in the fiscal year 1989-90. Over 90% of the cases involved refugees.

The Plan provides certificates through its normal programme to refugees making inland claims (that is, claims made following arrival in Canada) for representation at the credible basis hearing, to refugees making both inland claims and border claims at the full hearing and on any necessary application to the Federal Court.

The Plan also appoints counsel to represent all refugee claimants making border claims for refugee status through the "designated counsel programme". Because the Plan is appointing counsel from the private bar in those cases, the Plan has accepted the responsibility of providing training to lawyers participating in the "designated counsel programme" to ensure some measure of competence. Lawyers' continuing membership in the programme is conditional upon their attendance at mandatory seminars. Five seminars were conducted across the Province in the Spring of 1991. Members of the Immigration and Refugee Board, adjudicators from the Immigration Department, counsel from the Department of Justice, members of the refugee community, representatives from the United Nations High Commission for Refugees, officials of the Immigration Department and members of the immigration bar participated in those seminars. Materials were produced and made available to lawyers in attendance.

Through an agreement between the Province, the Plan and the Federal Government, the "designated counsel programme" is fully funded by the Federal Government to fulfil the requirements of a provision in the amended Immigration Act whereby counsel are provided at the expense of the Minister of Immigration to refugee claimants at their border inquiry.

In the fiscal year 1990-91, the cost of the "designated counsel programme" in Ontario was \$7,346,500. The estimated cost for the fiscal year 1991-92 is \$10,400,000. The total cost of immigration cases in the fiscal year 1990-91 (including the cost of the "designated counsel programme") was \$14,209,800.

## **LEGAL EDUCATION**

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Chair: Allan Rock, Q.C.

### *Bar Admission Course*

Bar Admission Course reforms have been nearly completed, so that by the end of 1991 the first class of Bar Admission Course candidates will have completed the new program. The new Bar Admission Course is almost entirely small-group oriented. The lecture method has been substantially eliminated, with the new focus centred on skills training and working through hypothetical client files.

The course continues to be offered in London, Ottawa and Toronto and is provided in both official languages in Ottawa.

### *Articling*

The Articling Subcommittee is overseeing the implementation of the Proposals for Articling Reform. The focus of the reform is to enhance articling as an educational experience. This will be accomplished by carefully screening articling placements, monitoring individual articling experiences through the filing of an Education Plan and related reports for each articling position, and implementing a program for training articling principals.

### *Continuing Legal Education*

The Continuing Legal Education Reform Subcommittee submitted its Report to the Legal Education Committee in April of 1991 which made extensive recommendations for a curriculum-based approach to education and enhancement of Continuing Legal Education outside of the major urban centres.

The Continuing Legal Education Department has already begun to

improve its course offerings outside of the major urban centres and has initiated the development of French language programming.

### *Bursaries*

The Law Society gratefully acknowledges donations from the following individuals and groups which have created bursaries for the Bar Admission Course:

- The Maxwell A. Levy, Q. C. Memorial Bursary established in 1982 by his wife, Fanny and his son, Robert.
- The Lawyers' Club Bursary established in 1983 by the Lawyers' Club.
- The Murray L. Keyfetz, Q.C. Memorial Bursary established in 1987 by his wife, Margaret and his daughter, Lynda.
- The Class of 1951 Bursary established by the Osgoode Hall Class of 1951.
- The Joseph Philip Chetner Memorial Bursary established by the firm of Torkin, Manes, Cohen & Arbus in memory of Mr. Chetner, a partner who passed away in November 1988.
- The Terence Sheard, C.B.E., Q.C. Memorial Bursary established in 1989 by Mrs. Terence Sheard.
- The Honourable John Arnup, Q.C. Bursary established by the Trustees of the Lawyers' Club in recognition of his considerable achievements over the years as a Past President of the Club, as a member of the Bench and Bar, and also his particular interest in furtherance of legal education in the Province of Ontario.
- The Harold G. Fox, Q.C. Education Fund Bursary established by the late Dr. Fox, eminent member of the Law Society, scholar, teacher, author and practitioner of international distinction in the area of patent and copyright law. The Trustees of the Fox Fund provide scholarships to student members of the Law Society in the Bar Admission Course for pupillage in Barristers' Chambers in London, England. The Trustees also provide the Law Society Foundation with monies for bursaries for students in the Bar Admission Course.

## LEGISLATION & RULES

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Chair: Maurice Cullity, Q.C.

The Legislation and Rules Committee reports on the following legislative amendments:

### *Amendment to the Law Society Act re Class Proceedings*

The Attorney-General, Honourable H. Hampton, introduced, in the Legislature on December 17th, 1990, an Act to amend the Law Society Act to provide for Funding to Parties to Class Proceedings. The amendments create a Fund of \$500,000. to be paid from revenues of the Law Foundation of Ontario. A Committee, to be appointed by the Attorney-General and the Law Foundation, will administer the Fund. It will only cover disbursements of plaintiffs in relation to the proceeding and payments to defendants in respect of costs awards made in their favour against plaintiffs who have received financial support from the Class Proceedings Fund.

### *Amendment to the Law Society Act re Temporary Members*

The Attorney-General, Honourable H. Hampton, introduced in the Ontario Legislature for first reading on April 23rd, 1991, an Act to amend the Law Society Act to provide for temporary members that are on an exchange program and are employed by the Attorney-General. The temporary member ceases to be a member of the Society at the end of the period of employment with the Attorney-General's Ministry.

## LIBRARIES & REPORTING

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Chair: Daniel J. Murphy, Q.C.

### *Ontario Reports*

The Society signed a new 3-year agreement with QL Systems Ltd. Quicklaw for the distribution of the Society's *Ontario Reports Database*. The features of the new contract are as follows:

1. The Law Society will receive increased royalties from the distribution of the *Ontario Reports Database*.
2. The Society has the option to purchase a copy of unreported Ontario judgements from 1986 (known as the OJ Database).
3. The Society has the option to produce a Compact Disc (CD-Rom) version of the *Ontario Reports Database*.



The Society's *Ontario Reports Database* continues to be the largest law report database on Quicklaw, containing both the full-text of reasons for judgement and headnotes of decisions from 1931 to date. Weekly updates (from the new Ontario Reports, 3d series) ensure that the *OR Database* is the most current law report series on Quicklaw.

The Society has also authorized Butterworths to produce a new Consolidated Index to the OR 2d series, covering the 75 volume from 1974 to 1991. Annual supplements to the Consolidated Index will cover succeeding volumes for the new OR 3d series.

The Society and Butterworths Canada Ltd. co-sponsored a Symposium on Law Reporting in June 1991, and will host further seminars in succeeding years. The Symposium was attended by lawyers, librarians, and publishers, and featured a luncheon address by The Honourable Mr. Justice Krever.

#### *County Libraries*

The Law Foundation of Ontario provided a very generous grant to the Law Society in support of the 47 county libraries across Ontario. The grant included an increase in operating funding for 1991, and capital development funds for the last of a three-year equipment upgrade project for the countries. Copiers, fax machines, video equipment, and electronic office equipment has been provided to various county law associations. Combined with increased funds generated by a modest increase in the Law Society's County Library Levy, funding for 1991 by the Society has allowed the county libraries to have a successful operating year.

### **PROFESSIONAL CONDUCT**

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Chair: Marc J. Somerville, Q.C.

This fall the Committee will be reviewing a collection of approximately 300 professional conduct opinions spanning a 26 year period, 1964-1990. The opinions are those of the Committee, individual Benchers and staff members. Once the Committee has reviewed these opinions, it is expected that they will be available in binder form from the Law Society early in 1992.

On the matter of reporting wrongdoing to the Law Society, advertisements have been placed in the Ontario Reports inviting submissions from the profession on a proposed amendment to the Rules of Professional Conduct. The amendment will provide concrete direction to lawyers as to when suspected misconduct must be reported.

The sub-committee on the Supreme Court of Canada decision in the



*Martin v. Gray* case (concerning conflicts of interest) is drafting a set of guidelines that will be of assistance to lawyers addressing conflicts of interest during the course of their daily practice. It is expected that these guidelines will be published in draft form in the *Ontario Reports* early in 1992.

## PROFESSIONAL STANDARDS

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Chair: Roger Yachetti, Q.C.

The Professional Standards Committee was established in recognition of the fact that standards of competency as applied to both the profession generally and lawyers individually were in need of greater attention from the Law Society.

The Committee has embarked on a number of initiatives in an effort to improve overall standards of competency. One such initiative has been the establishment of sub-committees entrusted with the task of formulating general competency guidelines for lawyers practising in different areas of law. The sub-committees are composed of Law Society Benchers, Judges, and experienced counsel drawn from private practice throughout Ontario. To date, criminal and real estate law guidelines have been published and distributed and significant progress has been made in the development of guidelines for practitioners in the areas of wills and estates, family law, and civil litigation.

The Committee is also responsible for the development of programmes designed to assist individual lawyers who have demonstrated an inability to deliver competent legal services to their clients. The major initiative in this regard has been the Practice Review Programme which is a form of voluntary peer review whereby lawyers with identified deficiencies are matched with lawyers with similar practice backgrounds. The objective is for the reviewer to identify the deficiencies which underlie the lawyer's problems and to propose a remedial programme to be monitored by the Law Society. Referrals for the Programme are generally received through the various departments of the Law Society which come into regular contact with the profession (i.e. Complaints, Errors and Omissions and Audit & Investigations).

As part of the reform process being spearheaded by the various special Committees presently sitting, the Standards Committee considered whether changes to the Practice Review Programme might better help fulfill its mandate. In that regard, the Committee recently approved in principle changes to the programme which would make practice reviews mandatory, would give Standards Panels the authority to make orders

aimed at addressing a member's competency problems and would allow for the participation of non-Benchers lawyers on panels. At present, these proposals are being reviewed by a Special Committee charged with the task of mapping out an implementation strategy for reforms proposed in various areas including Professional Standards, Discipline and Complaints. These proposals will require amendments to the *Law Society Act* before they can be fully implemented.

The Committee is also responsible for overseeing the Practice Advisory Service, a confidential service providing practice assistance to members of the profession, and the Society's participation in the LINK Lawyer's Assistance Programme. The latter is a joint initiative with the CBA(O) that has been in operation since February 1990 and provides counselling and referrals to lawyers experiencing difficulties with stress, substance abuse and other related problems. Available statistics indicate that this programme is gaining widespread acceptance.

## **RESEARCH & PLANNING**

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Chair: Harvey T. Strosberg, Q.C.

### *Publication of Attendance and Votes at Convocation*

At the Annual Meeting of the Law Society in November 1990, it was resolved that the Society should record and make available to all members the names of benchers in attendance at each Convocation and the way in which each bencher voted on each motion brought before Convocation. The matter was referred to the Research and Planning Committee and, in February 1991, Convocation adopted a series of recommendations to give effect to this resolution.

The proposal adopted by Convocation is to take effect in September 1991. The principal highlights are the following:

- The names of benchers present at meetings of Convocation will be published in the "buff pages" of the Ontario Reports.
- Roll-call votes on all issues "considered to be of significant interest to the profession" will be taken.
- A verbatim transcript of the proceedings of Convocation will be produced.
- A summary of the debate will be prepared for benchers on a six-month trial basis.

The transcript of all proceedings conducted in open session will be available in the Great Library and the County and District Law Libraries.

For the first six months, details of roll-call votes will not be included in the buff pages of the Ontario Reports although they will be recorded in the transcript. At the end of six months, the debate summaries will be evaluated by the Research and Planning Committee with a view to recommending to Convocation whether the buff pages should include details of roll-call votes together with a summary of the preceding debate.

#### *Benchers' Responsibilities*

In 1990 a survey was conducted in which each bencher was asked to report the total number of hours spent on Law Society business in a typical month. Some of the results were as follows:

- Median number of hours in a typical month, excluding travel amounted to 34 hours
- Median number of hours in a typical month, including travel totalled 46 hours (median of all responses)
- Median number of hours in a typical month, including travel was 60 hours (median of those who reported travel time)

As an immediate response to the report, Convocation has adopted a recommendation to appoint greater numbers of persons who are not benchers (both lawyers and lay persons) to serve as members of Law Society committees.

The Research and Planning Committee is continuing to consider the results of the survey to determine whether further action is required.

#### *Alternative Dispute Resolution (ADR)*

A Subcommittee has been established to consider the role of the Law Society with respect to alternative dispute resolution. Among other issues, the Subcommittee will be considering:

- Professional liability insurance for lawyers acting as ADR professionals.
- The impact of ADR on the Rules of Professional Conduct.
- The educational component of ADR at the law school, bar admission course, and continuing legal education levels of study.



- The role of the Law Society in respect of public information concerning ADR.

The Sub-committee is also to consider whether the Law Society should undertake regulation, training, and certification of ADR professionals.

*Pro Bono Lawyer Referral Service: Pilot Project*

Last fall a needs assessment survey was conducted among 90 non-profit organizations to determine the level of need for pro bono services. As a result of that survey, Convocation has adopted a proposal to conduct a twelve-month pilot project in a selected county outside Metropolitan Toronto. The purpose of the pilot project is to determine the feasibility of establishing a formal, province-wide, pro bono delivery system.

Following consultation with the County and District Law Presidents Association it has been decided to run the pilot project in two locations: the Regional Municipality of Hamilton-Wentworth and the County of Middlesex.

The pilot project will be restricted to providing legal services on a pro bono basis for non-profit organizations. The County Law Associations in the two counties will be responsible for encouraging lawyers to participate and for ensuring a proper standard of service.

Non-profit organizations in the designated areas that are in need of legal advice will be encouraged to call the toll-free number of the Law Society's Lawyer Referral Service where they will be referred to a lawyer in their area who is willing to provide legal services on a pro bono basis.

## **UNAUTHORIZED PRACTICE**

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Chair: R.J. Carter, Q.C.

The Report of the Attorney General's Task Force on Paralegals has now been released. In an Executive Summary to the Report the conclusions of the Task Force are summarized as follows:

"... that independent paralegals should be allowed to deliver a limited range of legal services within a newly regulated environment."

As well, the Task Force Report makes specific recommendations.

The Attorney-General has sought responses to the Report. The Law Society of Upper Canada has established a Special Committee on Paralegals for that purpose and that Committee has established a sub-committee on Access to Justice.

In the meantime, the Law Society of Upper Canada continues to prosecute both non-lawyers and disbarred lawyers who practise law in areas prohibited by the Act. During the fiscal year 1990-91, the Law Society conducted 26 prosecutions for unauthorized practice, 25 of which were successful. One prosecution was dismissed due to the Askov ruling.

## **WOMEN IN THE LEGAL PROFESSION**

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Chair: Frances P. Kiteley

In September 1990, after two years as a subcommittee of the Research and Planning Committee, the Women in the Legal Profession Committee became a Standing Committee of Convocation, responsible for research and policy development in respect of issues relating to women in the legal profession.

### *Transitions Report*

On April 26, 1991, Convocation adopted a major report from the Committee entitled *Transitions in the Ontario Legal Profession - A Survey of Lawyers Called to the Bar Between 1975 and 1990*. The survey was conducted in 1990. Questionnaires were mailed to 2,358 members. 1,597 questionnaires were returned (a response rate of 67.7%).

The 120-page report compares the experiences of women and men in the profession of law and addresses matters such as career histories, positions currently held, professional duties and satisfaction in the practice of law. It concludes with a series of recommendations concerning lifestyle and alternative career options, alternative work arrangements, parental responsibility policies, temporary absences from practice, discrimination, income, and the programs of the Law Society. These recommendations will define a major part of the Committee's agenda for the coming year.

The Transitions Report has been widely distributed within the Ontario legal profession and across the country.

### *Sexual Harassment*

During the course of the year, the Committee initiated a project on sexual harassment. The objective is to produce a model policy on sexual harassment for use by law firms and other organizations which employ lawyers. Existing policies from a variety of sources have been reviewed and the major principles have been thoroughly debated. The project is well advanced and it is expected that the policy will be ready for presentation to Convocation before the end of 1991.



At an early stage it was recognized that an essential component of any initiative on sexual harassment would be to inform members of the profession as to the nature and extent of the problem. To this end, two documents have been approved by Convocation for distribution to the profession.

The first of these documents, *Sexual Harassment in the Workplace: A Review of the Law in Canada*, sets out the existing law and focuses on the fact that sexual harassment in the workplace is an offence under the Human Rights Code. It lists types of behaviour that have been held to constitute sexual harassment and urges law firms to eradicate "a form of harassment that is illegal, offensive and degrading." The Review of the Law was published in the *Ontario Reports* on May 31, 1991. Its publication has led to a significant number of requests for further information.

The second document, *The Problem of Sexual Harassment in the Workplace: Steps that can be Taken by Lawyers as Employers*, was mailed to all members of the Law Society in August 1991. Again it draws attention to the fact that sexual harassment is an offence under the law and emphasizes that "sexual harassment encompasses more than you think." Its major focus is upon the liability of lawyers as employers for acts of sexual harassment committed by their employees. It suggests a number of practical steps that can be taken by employers to eliminate sexual harassment in the workplace.

Another result of the development of a sexual harassment policy has been a decision by Convocation that its Professional Conduct Committee should consider a rule on sexual harassment for inclusion in the *Professional Conduct Handbook*. The Women in the Legal Profession Committee is preparing a draft rule for consideration by the Professional Conduct Committee. It is intended that the rule should address inappropriate sexual behaviour by a lawyer towards clients, peers and support staff.

#### *Gender- Neutral Communications*

The Committee continues to monitor the implementation of the Society's Gender-Neutral Communication Policy. During the year, the Committee participated in a revision of the Rules of the Law Society with a view to ensuring that the Rules are worded in gender-neutral language.



# FINANCIAL STATEMENTS

## AUDITOR'S REPORT

To the Members of the Law Society of Upper Canada:

We have audited the balance sheet of the Law Society of Upper Canada as at June 30, 1991 and the General Fund statements of revenue and expenses, members' equity and changes in financial position and the Consolidated Errors and Omissions Insurance Fund and Lawyers Fund for Client Compensation statements of revenue and expenses and balance of fund for the year then ended. These financial statements are the responsibility of the Society's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In our opinion, these financial statements present fairly, in all material respects, the financial position of the Society as at June 30, 1991 and the results of its operations and the changes in its financial position for the year then ended in accordance with generally accepted accounting principles.

*Ernst + Young*

Chartered Accountants  
Toronto, Canada  
August 23, 1991

## BALANCE SHEET

As at June 30	1991 \$	1990 \$
<b>ASSETS</b>		
<b>General Fund</b>		
<b>Current</b>		
Cash	1,580,239	388,068
Short-term investments, at lower of cost and market value [approximate market value \$98,000; 1990 - \$5,553,000]	88,685	5,490,342
Accounts receivable	1,846,802	1,892,883
Inventory	223,874	301,655
Prepaid expenses and deferred charges	288,082	209,020
<b>Total current assets</b>	<b>4,027,682</b>	<b>8,281,968</b>
<b>Fixed assets</b>		
Land, buildings and improvements [note 9 & 10]	23,493,948	12,607,226
Furniture and equipment	3,760,309	2,970,000
	27,254,257	15,577,226
Less accumulated depreciation	8,632,595	7,913,000
<b>Net fixed assets</b>	<b>18,621,662</b>	<b>7,664,226</b>
<b>Total assets - General Fund</b>	<b>22,649,344</b>	<b>15,946,194</b>
<b>Consolidated Errors and Omissions</b>		
<b>Insurance Fund [note 5]</b>		
Cash	3,991,930	2,009,699
Short-term investments, at lower of cost and market value [approximate market value \$27,278,000; 1990 - \$20,441,000]	26,847,204	19,949,661
Deductible portion of claims paid, due from members	1,887,792	940,933
Interest and other receivables	2,900,954	2,078,568
Portfolio investments, at amortized cost [market value - \$56,663,000; 1990 - \$51,892,000]	56,531,716	54,065,263
Other assets	45,975	—
<b>Total assets - Consolidated Errors and Omissions</b>		
<b>Insurance Fund</b>	<b>92,205,571</b>	<b>79,044,124</b>
<b>Lawyers' Fund for Client Compensation [note 6]</b>		
Cash	1,362,127	212,381
Short-term investments, at lower of cost and market value [approximate market value \$5,745,000; 1990 - \$1,447,000]	5,723,899	1,437,701
Interest and other receivables	561,385	668,625
Portfolio investments, at amortized cost [market value - \$24,715,000; 1990 - 26,451,000]	24,691,374	27,484,210
Fixed assets (net)	5,956	—
<b>Total assets - Lawyers' Fund for Client Compensation</b>	<b>32,344,741</b>	<b>29,802,917</b>
<b>Total assets administered</b>	<b>147,199,656</b>	<b>124,793,235</b>

*see accompanying notes*

	1991	1990
	\$	\$
<b>LIABILITIES AND MEMBERS' EQUITY AND FUND BALANCES</b>		
<b>General Fund</b>		
<b>Current</b>		
Bank loan [note 11]	6,500,000	—
Deposits held	92,843	364,682
Accounts payable and accrued liabilities	3,594,965	2,877,764
Deferred revenue [note 4]	1,900,219	2,280,862
<b>Total current liabilities</b>	<b>12,088,027</b>	<b>5,523,308</b>
<b>Non-current liabilities</b>		
Mortgage payable	1,181,965	1,216,377
<b>Total liabilities</b>	<b>13,269,992</b>	<b>6,739,685</b>
<b>Total members' equity</b>	<b>9,379,352</b>	<b>9,206,509</b>
<b>Total liabilities and members' equity - General Fund</b>	<b>22,649,344</b>	<b>15,946,194</b>
<b>Consolidated Errors and Omissions Insurance Fund</b>		
<i>[note 5]</i>		
Accounts payable and accrued liabilities	3,006,642	648,859
Prepaid levies and other deferred revenue	8,678,339	5,101,031
Reserve for unpaid claims	81,926,434	61,439,517
Balance of fund	(1,405,844)	11,854,717
<b>Total liabilities and balance of fund - Consolidated Errors and Omissions Insurance Fund</b>	<b>92,205,571</b>	<b>79,044,124</b>
<b>Lawyers' Fund for Client Compensation [note 6]</b>		
Accounts payable	10,314	1,982
Balance of fund	32,334,427	29,800,935
<b>Total liabilities and balance of fund - Lawyers' Fund for Client Compensation</b>	<b>32,344,741</b>	<b>29,802,917</b>
<b>Total liabilities and members' equity and fund balances</b>	<b>147,199,656</b>	<b>124,793,235</b>

On behalf of the Convocation:



**Treasurer**



**Chair of Finance Committee**



# **GENERAL FUND** **STATEMENT OF REVENUE AND EXPENSES**

Year Ended June 30	1991 \$	1990 \$
<b>REVENUE</b>		
<b>General</b>		
Annual fees	13,794,896	11,907,935
Legal aid levy and interest	4,702,458	4,217,770
County libraries - fees	1,260,050	1,012,642
- The Law Foundation of Ontario grant	867,000	740,000
Investment income	971,633	1,278,582
Catering	621,167	637,566
Library user fees	473,268	433,251
Call and admission fees	393,799	497,610
Other grants	257,500	280,000
Miscellaneous	181,816	220,435
Certification	37,275	42,250
Ontario Reports	363,122	86,377
<b>Total general revenue</b>	<b>23,923,984</b>	<b>21,354,418</b>
<b>Bar Admission Course</b>		
Tuition and book fees	3,351,671	2,326,450
Grants - Province of Ontario	937,900	897,520
- The Law Foundation of Ontario	1,532,442	1,135,903
<b>Total Bar Admission Course [note 2]</b>	<b>5,822,013</b>	<b>4,359,873</b>
<b>Continuing legal education [note 2]</b>	<b>1,297,696</b>	<b>2,187,925</b>
<b>Total revenue</b>	<b>31,043,693</b>	<b>27,902,216</b>
<b>EXPENSES</b>		
<b>General</b>		
Legal Aid Plan share of assessable administrative costs	4,702,458	4,217,770
Libraries and reporting	2,313,728	2,263,279
County libraries	2,297,831	1,976,221
Secretariat	2,449,326	2,215,073
Finance and administration	1,891,638	1,765,183
Discipline	804,317	1,656,084
Complaints	1,294,728	—
Buildings and grounds	1,989,475	2,345,156
Audit	1,865,444	1,603,257
Communications	1,500,069	1,314,121
Catering	625,046	627,231
Unauthorized practice	356,380	354,904
Professional conduct	158,187	150,423
Muniments and memorabilia	292,780	178,801
County and district liaison	58,614	59,355
Admissions	202,159	90,790
French language services	114,196	35,153
Certification	137,546	92,927
<b>Total general expenses</b>	<b>23,053,922</b>	<b>20,945,728</b>
<b>Bar Admission Course [note 2]</b>	<b>5,865,639</b>	<b>4,359,873</b>
<b>Continuing legal education [note 2]</b>	<b>1,951,289</b>	<b>2,218,046</b>
<b>Total expenses</b>	<b>30,870,850</b>	<b>27,523,647</b>
<b>Excess of revenue over expenses for the year</b>	<b>172,843</b>	<b>378,569</b>

*see accompanying notes*



**GENERAL FUND  
STATEMENT OF MEMBERS' EQUITY**

Year Ended June 30	1991	1990
	\$	\$
Balance, beginning of year	9,206,509	8,827,940
Excess of revenue over expenses for the year	172,843	378,569
Balance, end of year	9,379,352	9,206,509

**CONSOLIDATED ERRORS AND OMISSIONS INSURANCE FUND  
STATEMENT OF REVENUE AND EXPENSES AND  
BALANCE OF FUND**

Year Ended June 30	1991 \$	1990 \$
<b>REVENUE</b>		
Members' levy	28,082,738	24,788,539
Investment income	8,809,824	7,754,292
<b>Total revenue</b>	<b>36,892,562</b>	<b>32,542,831</b>
<b>EXPENSES</b>		
Provision for claims, defence and related costs	42,265,069	20,198,758
Insurance premium	4,439,325	1,902,982
Salaries	1,191,674	1,063,528
Administration [note 5]	1,568,575	560,387
Brokerage fees	100,000	100,000
Rent	230,351	146,334
Practice advisory services	358,129	348,946
<b>Total expenses</b>	<b>50,153,123</b>	<b>24,320,935</b>
<b>Excess of revenue over expenses for the year</b>	<b>(13,260,561)</b>	<b>8,221,896</b>
Balance of fund, beginning of year	11,854,717	3,632,821
<b>Balance of fund held for future claims and expenses, end of year</b>	<b>(1,405,844)</b>	<b>11,854,717</b>

*see accompanying notes*

**LAWYERS FUND FOR CLIENT COMPENSATION  
STATEMENT OF REVENUE AND EXPENSES AND  
BALANCE OF FUND**

Year Ended June 30	1991 \$	1990 \$
<b>REVENUE</b>		
Annual levy	569,383	1,080,772
Investment income	3,114,192	2,928,243
<b>Total revenue</b>	<b>3,683,575</b>	<b>4,009,015</b>
<b>EXPENSES</b>		
Grants paid, less recoveries	541,578	1,429,430
Counsel fees, referee fees and administrative costs	354,020	251,239
Salaries and benefits	216,118	193,772
Reports and sundries	38,367	46,775
<b>Total expenses</b>	<b>1,150,083</b>	<b>1,921,166</b>
<b>Excess of revenue over expenses for the year</b>	<b>2,533,492</b>	<b>2,087,849</b>
Balance of fund, beginning of year	29,800,935	27,713,086
<b>Balance of fund, end of year</b>	<b>32,334,427</b>	<b>29,800,935</b>

# GENERAL FUND

## STATEMENT OF CHANGES IN FINANCIAL POSITION

Year Ended June 30	1991 \$	1990 \$
<b>OPERATING ACTIVITIES</b>		
Excess of revenue over expenses for the year	172,843	378,569
Item not affecting cash		
Depreciation	719,593	611,000
Other operating sources (uses)		
Accounts receivable	46,081	(962,725)
Inventory	77,781	(81,162)
Prepaid expenses	10,367	(42,607)
Deposits held	(271,839)	364,682
Accounts payable and accrued liabilities	717,201	1,004,661
Net deferred items	(470,070)	(60,230)
<b>Cash provided by operating activities</b>	<b>1,001,957</b>	<b>1,212,188</b>
<b>INVESTING ACTIVITIES</b>		
Fixed asset additions	(11,677,031)	(6,642,226)
Grant	—	1,238,000
<b>Cash used in investing activities</b>	<b>(11,677,031)</b>	<b>(5,404,226)</b>
<b>FINANCING ACTIVITIES</b>		
Assumed mortgage payable	—	1,262,000
Mortgage repayments	(34,412)	(14,474)
<b>Cash provided by financing activities</b>	<b>(34,412)</b>	<b>1,247,526</b>
<b>Net change in cash and short-term investments</b>	<b>(10,709,486)</b>	<b>(2,944,512)</b>
Cash position, beginning of year	5,878,410	8,822,922
<b>Cash position, end of year</b>	<b>(4,831,076)</b>	<b>5,878,410</b>
<b>Cash position represented by</b>		
Short-term investments	88,685	5,490,342
Cash (bank loan)	(4,919,761)	388,068
	<b>(4,831,076)</b>	<b>5,878,410</b>

*see accompanying notes*



## NOTES TO FINANCIAL STATEMENTS

### JUNE 30, 1991

#### 1. SIGNIFICANT ACCOUNTING POLICIES

The Society uses fund accounting, whereby the General Fund is used to account for the Society's various operations, the Lawyers Fund for Client Compensation for its compensation grants, and the Consolidated Errors and Omissions Insurance Fund for insurance claims [partly self-insured] and for administrative costs and adjusters' fees. The Consolidated Errors and Omissions Insurance Fund includes the assets of a wholly-owned subsidiary, the Lawyers' Professional Indemnity Company.

Short-term investments are stated at the lower of cost and market value.

Portfolio investments held for the Lawyers Fund for Client Compensation and the Consolidated Errors and Omissions Insurance Fund are recorded at cost, net of amortization of premiums and discounts. Premiums and discounts from the par value are amortized over the term to maturity.

Inventory is valued at the lower of cost and net realizable value.

Land, buildings, furnishings and major alterations are presented at cost net of accumulated depreciation and amortization and grants. Depreciation and amortization are charged to expense on a straight-line basis over the estimated useful lives of the assets as follows:

Buildings	30 years
Building and leasehold improvements	10 years
Furniture and office equipment	3 to 5 years

Depreciation on major additions commences upon the asset being placed in service.

Minor capital expenditures including the purchase of books for the Great Library are expensed in the year of acquisition. An allocation is made to members' equity for the net investment in fixed assets for information purposes.

The reserve for unpaid claims includes estimates for outstanding case reserves [including adjuster, legal and other related fees] and a supplemental amount for incurred but not reported claims. It is presented net of estimated member deductible and insurance recoveries, and anticipated investment income. An independent actuary is periodically engaged to perform an actuarial study using historical experience.

Administrative expenses include only those salaries and other expenses not allocated directly to specific activities.

Grants from the Lawyers Fund for Client Compensation are recognized when the amount is determined.

The work of the Society is dependent on the voluntary services of the benchers, lay benchers, and other members of the profession. These services are received gratuitously, therefore, no value has been included in these financial statements.

The Society is empowered to administer the Legal Aid Plan and to maintain the Legal Aid

Fund in accordance with the Legal Aid Act. The Society reports annually to the Attorney General of Ontario on the accounts and financial transactions of the Legal Aid Fund. The financial statements of the Legal Aid Fund are subject to audit by the Provincial Auditor, and are not included in these financial statements. The activities of the Advocates' Society Institute, a related organization, are not incorporated into these financial statements.

## 2. LEGAL EDUCATION

The Society received an annual grant from the Province of Ontario. In addition, in 1991 a grant was received from The Law Foundation of Ontario for the traditional Bar Admission Course and a special grant to aid the transition to the revised Bar Admission Course to cover the operating deficits up to a maximum of \$650,000 and \$707,714 respectively.

	Authorized \$	Utilized \$
1990/1991 Operating deficit	up to a maximum of 650,000	650,000
Bar Admission Course Reform	707,714	707,714
B.A.C. Reform surplus carryforward	197,018	61,157
French language translation of courses	300,000	229,354
		1,648,225
Less amount received during the year		944,426
<b>Amount receivable at June 30, 1991</b>		<b>703,799</b>

The unutilized portion of the French language translation of courses grant is available to offset expenditures during the 1992 fiscal year.

### Legal education operating results

The results of operations of the Society's legal education programs are as follows:

	Bar Admission Course \$	Continuing legal education \$
Revenue	5,822,013	1,297,696
Expenses	5,865,639	1,951,289
	(43,626)	(653,593)

## 3. THE LAW FOUNDATION OF ONTARIO - GENERAL GRANTS

### County and district library grants

The Society obtained a grant of \$867,000 from The Law Foundation of Ontario, on behalf of county and district libraries.

### Other grants

A further \$634,500 was received from The Law Foundation of Ontario to support Dial-a-Law, Heritage, the Great Library book preservation and County Library Capital grants.

#### 4. DEFERRED REVENUE

Deferred revenue consists of the following:

	1991	1990
	\$	\$
Legal aid	940,273	1,571,167
Tuition fees	42,310	415,465
Education - employment placement	65,938	53,540
French language services	250,297	41,742
Articling matching programme	24,420	26,930
Heritage	190,535	20,958
Research and Planning	17,500	—
Articling Reform	59,500	—
Library		
Levies	119,765	132,783
The Law Foundation of Ontario grants	189,681	18,277
	<b>1,900,219</b>	<b>2,280,862</b>

Annual fees for 1991 included an amount of \$175 per member as the Society's contribution to the administration of the Legal Aid Plan. The designated legal aid deferred revenue represents the difference between the accumulated funds collected from members and the statutory contributions to the Legal Aid Plan through to its fiscal year ended March 31, 1991.

#### 5. CONSOLIDATED ERRORS AND OMISSIONS INSURANCE FUND

The Society's current errors and omissions insurance program insures members against claims for errors discovered from calendar year 1977 onwards, with claims being covered, for 1983 to the present, on the following basis:

	1989 through 1991	1987 through 1988	1983 through 1986
	\$	\$	\$
<b>Borne by</b>			
Consolidated Errors and			
Omissions Insurance Fund,			
including members'			
deductible	250,000	150,000	100,000
Insurer	750,000	450,000	400,000
<b>Total coverage per</b>			
<b>    occurrence</b>	<b>1,000,000</b>	<b>600,000</b>	<b>500,000</b>

A separate fund is established each year to provide for claims reported to the Society during that year. The maximum fund loss experience for any year, up to and including 1989, is limited by a stop loss agreement with the insurer. There is no stop loss agreement with the insurer beginning with the fund year commencing July 1, 1990. For 1991, the Society subscribed to an insurance policy that has a sliding scale premium. Consequently, the Society is contingently liable for an amount of approximately \$2,000,000, this being the difference

between the minimum and maximum premiums, such amount to be adjusted based on actual incurred loss experience. The maximum recovery from the insurers for 1991 is limited to \$15,000,000.

The Errors and Omissions levies are determined annually. The amounts are determined based on historical experience and are adjusted for any adverse claims experience.

An analysis of the reserve for unpaid claims at June 30, 1991 is as follows:

	1991 \$	1990 \$
Gross ultimate liability	193,516,711	128,773,517
Estimated recoveries from insurers	36,699,893	24,424,000
Estimated member deductibles	24,973,403	21,823,000
	131,843,415	82,526,517
Anticipated investment income, at a rate of 10%	49,916,981	21,087,000
<b>Net reserve</b>	<b>81,926,434</b>	<b>61,439,517</b>

The change in reserves set aside to meet unpaid claims is as follows:

	1991 \$	1990 \$
<b>Reserve balance, beginning of year</b>	<b>61,439,517</b>	54,102,383
Provision for unpaid claims	42,265,069	20,198,758
Less payments	(21,778,152)	(12,861,624)
<b>Reserve balance, end of year</b>	<b>81,926,434</b>	<b>61,439,517</b>

Members may obtain bank loans to enable them to repay their liability for the deductible portion of claims paid. The Society has guaranteed these loans. Loans outstanding at June 30, 1991 amount to \$42,189 [1990 - \$208,804].

### Administration

1990/91 was the first full year with the Lawyers' Professional Indemnity Company included in the results and as such administrative costs have increased. The schedule below shows comparative figures for 1991 and 1990.

	1991 \$	1990 \$
Lawyers' Professional Indemnity Company	530,076	—
General fund charges:		
Finance Administration	317,400	241,000
Building and grounds	331,000	—
Printing and stationery	52,553	40,879
CLE related programme	35,100	—
Postage	64,477	35,897
Furniture and equipment	58,793	27,610
Leasehold improvements	—	7,160
Other	179,176	207,841
	<b>1,568,575</b>	<b>560,387</b>



## 6. LAWYERS FUND FOR CLIENT COMPENSATION

Convocation may make grants from the Lawyers Fund for Client Compensation in order to relieve or mitigate loss sustained by any person arising mainly from dishonesty on the part of a member of the Society.

Annual levies for this fund vary from year to year to reflect the anticipated grants. At the year end, claim applications of \$21,307,133 [1990 - \$7,941,685] had been received. Grants are made within the discretionary limits approved by Convocation. Strict application of the applicable limits to existing claims indicate that the maximum grants under the program would aggregate \$11,704,962 [1990 - \$3,174,415].

## 7. ENDOWMENT FUNDS

The Society administers endowment funds from earned income of which prizes, bursaries and gifts are made annually. At the year end, the endowment funds consisted of cash, investments and interest and other receivables of \$441,940 [1990 - \$419,463], of which \$236,244 was capital and the balance of \$205,596 [1990 - \$183,119] was unexpended income. Prizes, bursaries and gifts of \$16,671 [1990 - \$16,755] were paid during the year.

## 8. PENSION PLAN

The Society maintains a defined contribution pension plan for all eligible employees. The plan covers 186 employees of the Society and 262 employees at the offices of the Legal Aid Plan. The Society matches its employees' contributions to the plan.

The Society's annual pension expense [excluding Legal Aid] for 1991 amounted to \$315,212 [1990- \$281,365].

## 9. COMMITMENTS

### Operating leases

The Society is committed to monthly lease payments for property and computer facilities under leases having various terms up to August 2001. Aggregate monthly lease payment over the next five years and in total are as follows:

	1992	1993	1994	1995	1996 and thereafter	Total
	\$	\$	\$	\$	\$	\$
<b>General Fund</b>						
Bar Admission Course						
London	55,382	134,680	150,360	156,893	1,148,560	1,645,875
Computer equipment	85,043	85,043	85,043	85,043	—	340,172
	140,425	219,723	235,403	241,936	1,148,560	1,986,047
<b>Consolidated Errors and Omissions Insurance Fund</b>						
20 Queen St. W.	153,125	—	—	—	—	153,125
	293,550	219,723	235,403	241,936	1,148,560	2,139,172

As at June 30, 1991 the lease at 20 Queen St. W. was being negotiated for more favourable terms at the expiry of the existing lease on January 31, 1992. The lease for the London Bar Admission Course expires on August 31, 1991. A lease arrangement at a new location has been negotiated but has yet to be ratified.

#### **Osgoode Hall renovations**

During the year, renovation and construction continued at the Society's offices at Osgoode Hall. As at June 30, 1991, expenditures totalled \$12,802,537 of total estimated commitment of approximately \$14,800,000.

### **10. INSURED VALUE OF SOCIETY ASSETS**

The buildings and equipment of the Society are valued for insurance purposes at an estimated replacement cost of \$60,838,000. The books and records located at the Great Library are valued for insurance purposes at an estimated replacement cost of \$20,545,000. The books and records located at county and district libraries are valued for insurance purposes at an estimated replacement cost of \$21,532,000.

### **11. BANK LOAN**

The Society has arranged for a long-term banking facility to finance the building renovation program. Within the terms of this facility it is currently on a short-term basis but the Society has the option of converting this into a five-year term at any time.



## LAW SOCIETY MEDAL RECIPIENTS

FIVE DISTINGUISHED MEMBERS of the Bar were selected in May to receive the Law Society Medal. The honour, established by the Benchers in 1984, is granted to members of the Society who perform their lawyering tasks with such diligence and effectiveness and so much to the benefit of the profession as to be deserving of special recognition.

Nominations for the award are reviewed by the Law Society Medal Committee which is composed of the Treasurer of the Society, four Benchers, the Chief Justice of Ontario, the President of the Canadian Bar Association - Ontario, the President of the Advocates Society and the Chair of the Ontario Law Deans. Those awarded the Law Society Medal were:

### **John Joseph Broderick, Q.C.**

Called to the Bar in 1951, Mr. Broderick received the Law Society Medal in recognition of his service to his clients, his community and the legal profession. He is Past President of the Niagara Falls Bar Association, the Welland County Law Association and has been a prominent members of the Judicial Liaison Committee of the Welland County Law Association. Mr. Broderick has been involved in a number of community activities including representation on the School Board, head of the Professional Section of the United Way, Director of Greater Niagara General Hospital Foundation and has been an active fund raiser for the Canadian Cancer Society and Brock University.

### **A. Rendall Dick, Q.C.**

Called to the Bar in 1951, Mr. Dick was awarded the Law Society Medal in recognition of his dedicated service to the profession and to the people

of Ontario. He was appointed Deputy Attorney General in 1964 and was appointed Deputy Minister of Treasury, Economics and Intergovernmental Affairs in 1974. He is Past President of the Uniform Law Conference, Past Chair of the Ontario Municipal Improvement Corporation, the Ontario Education Capital Aid Corporation, the Ontario Universities' Capital Aid Corporation and Chair of the Ontario Provincial Police Negotiating Committee. From 1983 to 1987, he served as Under Treasurer of the Law Society of Upper Canada.

**John Patrick Nelligan, Q.C.**

Called to the Bar in 1949, Mr. Nelligan was awarded the Law Society Medal in recognition of his long service and dedication to the profession. He has served as President of the Advocates' Society, the Canadian Civil Liberties Association, and the Thomas More Lawyers' Guild of Ottawa. Mr. Nelligan is also a Fellow of the International Academy of Trial Lawyers and has served on the board of a number of public service organizations. He is the author of highly acclaimed learned papers and articles and has been very active in the affairs of the County of Carleton Law Association.

**Albert Abraham Strauss, Q.C.**

Called to the Bar in 1956, Mr. Strauss received the Law Society Medal in recognition of his outstanding service to the profession in the fields of real estate and commercial law. He has been extremely active in the Canadian Bar Association both at the provincial and national levels. In addition, he has served as Chair of the Continuing Legal Education Committee of the Canadian Bar Association-Ontario and has been a panel participant and organizer of numerous Continuing Legal Education programs.

**Janet Myra Wilson**

Called to the Bar in 1981, Ms. Wilson was awarded the Law Society Medal in recognition of her exemplary service to the profession through her involvement with the Canadian Bar Association-Ontario and other committees particularly in the area of proposed reform in the insurance law field. Ms. Wilson has served the profession in keeping with its highest ideals.





## CONVOCATION MEMBERSHIP

### **Changes in the Membership of Convocation**

Diana Hunt resigned December 1, 1990 and was replaced by Paul D. Copeland.

C. Bruce Noble was appointed to the High Court of Justice General Division March 28, 1991 and was replaced by Vern Krishna.

R. Roy McMurtry was appointed Associate Chief Justice of the Ontario Court of Justice General Division March 22, 1991.

Philip M. Epstein resigned February 15, 1991 and was replaced by Clive Bynoe.

### **Benchers of the Law Society of Upper Canada**

Prior to the Bencher Elections of May 10, 1991

#### *Treasurer*

James M. Spence, Q.C.

#### *Elected Benchers*

Thomas G. Bastedo

Denise E. Bellamy

Rino C. Bragagnolo, Q.C.

Clive Bynoe, Q.C.

Colin L. Campbell, Q.C.

Thomas J.P. Carey

Robert J. Carter, Q.C.

Sandra Chapnik

Paul D. Copeland, Q.C.

Maurice C. Cullity, Q.C.

G.H.T. Farquharson, Q.C.  
 Roderic G. Ferguson, Q.C.  
 Patrick G. Furlong, Q.C.  
 John D. Ground, Q.C.  
 Hugh Guthrie, Q.C.  
 D. Jane Harvey  
 Michael G. Hickey, Q.C.  
 Kenneth E. Howie, Q.C.  
 Frances P. Kiteley  
 Vern Krishna, Q.C.  
 Paul S.A. Lamek, Q.C.  
 Donald H.L. Lamont, Q.C.  
 Samuel Lerner, Q.C.  
 Earl J. Levy, Q.C.  
 Jeffery S. Lyons, Q.C.

Ronald D. Manes  
 Colin D. McKinnon, Q.C.  
 Daniel J. Murphy, Q.C.  
 Dennis R. O'Connor, Q.C.  
 Patricia J. Peters, Q.C.  
 Allan M. Rock, Q.C.  
 Clayton C. Ruby  
 Bernard Shaffer, Q.C.  
 Marc J. Somerville, Q.C.  
 Harvey T. Strosberg, Q.C.  
 J. Douglas Thoman, Q.C.  
 Robert C. Topp, Q.C.  
 James J. Wardlaw, Q.C.  
 Mary P. Weaver, Q.C.  
 Roger D. Yachetti, Q.C.

*Appointed Benchers*

June Callwood  
 Netty Graham

Ross Hall  
 Anne-Marie Stewart

*Benchers Ex Officio*

John D. Arnup, Q.C.  
 F.M. Cass, Q.C.  
 Ronald W. Cass, Q.C.  
 John T. Clement, Q.C.  
 Austin Cooper, Q.C.  
 Stanley E. Fennell, Q.C.  
 Lee K. Ferrier, Q.C.  
 E. A. Goodman, Q.C.  
 The Hon. Howard Hampton,  
   Attorney General for Ontario  
 Gordon F. Henderson, Q.C.  
 The Hon. William G. Howland, Q.C.  
 Robert Kemp-Welch, Q.C.

The Hon. Allan Lawrence, P.C., Q.C.  
 Laura L. Legge, Q.C.  
 G. Arthur Martin, Q.C.  
 Hugh F. McCulloch, Q.C.  
 Brendan O'Brien, Q.C.  
 Alan W. Pope, Q.C.  
 P.B.C. Pepper, Q.C.  
 J.J. Robinette, Q.C.  
 Arthur R. A. Scace, Q.C.  
 Ian G. Scott, Q.C.  
 Nathan Strauss, Q.C.  
 Stuart Thom, Q.C.

*Honorary Benchers*

Her Majesty Queen Elizabeth, The Queen Mother  
 The Rt. Hon. Roland Michener, P.C., Q.C.  
 The Rt. Hon. Margaret Thatcher, M.P.  
 Kenneth Jarvis, R.C.A., Q.C.

## **Benchers of the Law Society of Upper Canada**

at June 30, 1991

### *Treasurer*

James M. Spence, Q.C.

### *Elected Benchers*

Thomas G. Bastedo  
Denise E. Bellamy  
Rino C. Bragagnolo, Q.C.  
Lloyd Brennan, Q.C.  
Colin L. Campbell, Q.C.  
Robert J. Carter, Q.C.  
Sandra Chapnik  
Paul D. Copeland, Q.C.  
Maurice C. Cullity, Q.C.  
Carol Curtis  
E. Susan Elliott  
Philip M. Epstein, Q.C.  
Abraham G. Feinstein, Q.C.  
Neil Finkelstein, Q.C.  
Michael G. Hickey, Q.C.  
Kenneth E. Howie, Q.C.  
Frances P. Kiteley  
Vern Krishna, Q.C.  
Paul S.A. Lamek, Q.C.  
Donald H.L. Lamont, Q.C.

Joan Lax  
Samuel Lerner, Q.C.  
Earl J. Levy, Q.C.  
Ronald D. Manes  
Colin D. McKinnon, Q.C.  
Fatima Mohideen  
Daniel J. Murphy, Q.C.  
Ross W. Murray  
Dennis R. O'Connor, Q.C.  
Julaine Karen Palmer  
Patricia J. Peters, Q.C.  
Allan M. Rock, Q.C.  
Clayton C. Ruby  
David W. Scott, Q.C.  
Marc J. Somerville, Q.C.  
Harvey T. Strosberg, Q.C.  
Robert C. Topp, Q.C.  
James J. Wardlaw, Q.C.  
Mary P. Weaver, Q.C.  
Roger D. Yachetti, Q.C.

### *Appointed Benchers*

Netty Graham  
Shirley O'Connor

Nora Richardson  
Anne-Marie Stewart

### *Benchers Ex Officio*

John D. Arnup, Q.C.  
F.M. Cass, Q.C.  
Ronald W. Cass, Q.C.  
John T. Clement, Q.C.  
Austin Cooper, Q.C.  
G.H.T Farquharson, Q.C.  
Stanley E. Fennell, Q.C.

Lee K. Ferrier, Q.C.  
Patrick Furlong, Q.C.  
E. A. Goodman, Q.C.  
John D. Ground, Q.C.  
The Hon. Howard Hampton,  
Attorney General for Ontario  
Gordon F. Henderson, Q.C.

The Hon. William G. Howland, Q.C.	Alan W. Pope, Q.C.
Robert Kemp-Welch, Q.C.	P.B.C. Pepper, Q.C.
The Hon. Allan Lawrence, P.C., Q.C.	J.J. Robinette, Q.C.
Laura L. Legge, Q.C.	Arthur R. A. Scace, Q.C.
G. Arthur Martin, Q.C.	Ian G. Scott, Q.C.
Hugh F. McCulloch, Q.C.	Nathan Strauss, Q.C.
Brendan O'Brien, Q.C.	Stuart Thom, Q.C.

*Honorary Benchers*

Her Majesty Queen Elizabeth, The Queen Mother  
The Rt. Hon. Roland Michener, P.C., Q.C.  
The Rt. Hon. Margaret Thatcher, M.P.  
Kenneth Jarvis, R.C.A., Q.C.





## **SENIOR MANAGEMENT**

The Law Society of Upper Canada  
Senior Management at June 30, 1991

**Under Treasurer**

Donald A. Crosbie, Q.C.

**Secretary**

Richard F. Tinsley

**Deputy Secretary**

Margaret J. Angevine

**Director, Finance**

David Crack

**Director, Insurance**

Lin Whitman

**Director, Education**

Alan Treleaven

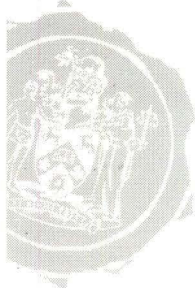
**Chief Librarian**

Glen Howell

**Director, Legal Aid**

Robert L. Holden





## **ANNUAL GENERAL MEETING, 1991**

ON WEDNESDAY, NOVEMBER 13, 1991 The Law Society of Upper Canada will hold its Annual Meeting at 5:00 o'clock in the afternoon in Convocation Hall at Osgoode Hall, Toronto. All members of the Society are invited to attend. The following matters will be considered.

1. Minutes of previous annual meeting.
2. Report on the work of the Society and the committees of the Society and of Convocation.
3. Presentation of financial statement.
4. Matters of professional interest that are directly related to work of the Society.
5. Notice of motions.

### **MOTIONS**

Notice has been given in accordance with Rule 52 of the Rules passed under the Law Society Act that the following motions will be made at the Annual Meeting.

**1. WHEREAS** a major function of the Law Society is the maintenance of ethical standards and good behaviour on the part of its members by the imposition of appropriate penalties when instances of professional misconduct or conduct unbecoming a barrister and solicitor occur.

AND WHEREAS prior to 1970 the benchers assembled in Convocation had the responsibility of determining whether a member against whom a complaint of professional misconduct or conduct unbecoming had been laid was guilty and if so found, the penalty that should be imposed.

AND WHEREAS by amending legislation in that year the authority to decide whether a complaint was well founded was taken from Convocation and conferred on a committee of benchers, while the order imposing the penalty remained the prerogative of Convocation, a function in which all the benchers would participate. In practice this committee, usually three in number, is appointed ad hoc from among the benchers.

AND WHEREAS the amending legislation provided further that the member could appeal from Convocation's order to the Divisional Court, there previously having been no right of appeal from Convocation's order.

AND WHEREAS steps have been taken with the intent of revising the disciplinary process as outlined above so that;

- a) the ad hoc committee which heard a complaint of professional misconduct or conduct unbecoming, upon finding the member guilty would themselves determine and impose the penalty,
- b) the member could appeal to a standing appeal panel of seven benchers with a quorum of five, who would not participate in any other way in the disciplinary process while serving on the panel,
- c) there would be no further appeal to Convocation or the court. (The statutory right to judicial review of a decision of the ad hoc committee or the appeal panel would remain.)

AND WHEREAS the proposed revision of the disciplinary process is ill-conceived and unacceptable for the following reasons;

- a) the penalty imposed in respect of conduct involving moral turpitude such as misappropriation of funds or deceitful and immoral practices should reflect the attitude of the profession at large to such behaviour while, in fairness to the member, taking into consideration the particular features of the case. Whatever may be the individual qualities of its members, an ad hoc committee of only three benchers cannot adequately perform that function.
- b) while the member clearly should have a right of appeal from



the disposition of his/her case in the first instance, an appeal from one committee or panel of benchers to another panel of benchers strikes the wrong note.

c) it is stated in the Report on the Inquiry into Civil Rights, conducted by Chief Justice McRuer, Volume 1, page 234, "An appeal from a judicial tribunal should be taken to the ordinary courts unless exceptional circumstances render this impractical".

d) it is unfitting that the legal profession should seek to deny access by its members to the courts.

NOW THEREFORE BE IT RESOLVED that the proposed revision of the discipline process should not be proceeded with.

2. BE IT RESOLVED that the OATH OF ALLEGIANCE to Her Majesty Queen Elizabeth the Second, Her heirs and successors, as prescribed by Rule 51, be deleted from the Rules made under the *Law Society Act*.

3. WHEREAS subsection 14 (1) of the *Law Society Act* ("Act") provides that every member who has been or is elected to the office of Treasurer is an *ex officio* bencher with all the rights and privileges of an elected bencher;

Although it is not specified in the legislation or rules, one of the rights of elected benchers is the right to vote in Convocation;

It follows that any former or current Treasurers, whether or not elected in the most recent bencher election, may vote in Convocation;

By virtue of section 12 and subsection 14 (1) of the Act, all *ex-officio* benchers with the exception of former and current Treasurers and the current Attorney-General for Ontario, are precluded from voting in Convocation;

Benchers who meet and vote in Convocation are charged with the responsibility of making decisions with respect to the governance of the legal profession and the protection of the public interest;

The Law Society of Upper Canada ("Law Society") has been striving towards more open, accountable and democratic procedures;

It is submitted that the democratic principle of the accountability of the governing body of the Law Society to the public and to the members of the Law Society is compromised when former and current Treasurers

who have not been duly elected in the most recent bench election have voting rights in Convocation; and

It is submitted that adherence to a fully democratic process is essential if the Law Society is to govern itself responsibly in the public interest.

THEREFORE IT IS MOVED THAT EFFECTIVE FOLLOWING THE 1992 TREASURER ELECTION, FORMER AND CURRENT TREASURERS NOT ELECTED IN THE MOST RECENT BENCHER ELECTION BE TREATED IN THE SAME MANNER AS OTHER *EX OFFICIO* BENCHERS (WITH THE EXCEPTION OF THE ATTORNEY-GENERAL FOR ONTARIO) AND NOT HAVE A VOTE IN CONVOCAION AND THAT THE LAW SOCIETY PROPOSE TO THE ATTORNEY-GENERAL FOR ONTARIO AN AMENDMENT TO THE *LAW SOCIETY ACT* TO EFFECT THE FOREGOING.

4. WHEREAS pursuant to subsection 14(1) of the *Law Society Act* ("Act") every member who has been or is elected to the office of Treasurer is an *ex officio* bench with all the rights and privileges of an elected bench;

Pursuant to subsection 25(1) of the Act, annually at the regular Convocation in May or at such other time as they may fix, the benchers elect one of their number as Treasurer;

It is customary for Treasurers to stand unopposed for re-election for a second term;

It follows as a result of the foregoing that any former Treasurer of the Law Society of Upper Canada ("Law Society") may be elected as Treasurer without having been elected as bench in the most recent bench election;

There appears to be no provision of the Act which would prevent a former Treasurer from standing for election as a bench;

Pursuant to section 7 of the Act the Treasurer is the president and head of the Law Society;

It is a basic principle of responsible government that the head of the government have the support of the electorate. It is submitted that as president and head of the Law Society the position of Treasurer is analogous in many respects to the position of head of government;

The Law Society has been striving towards more open, accountable and democratic procedures;

It is submitted that the democratic principle of the accountability of the Law Society, and therefore of the Treasurer, to the public and to the members of the Law Society is compromised when the individual hold-

ing the position of Treasurer has not been duly elected in the most recent bench election with the other benchers;

It is submitted that as president and head of the Law Society, the Treasurer is so central to the process of self-governance that he or she must have the support of the membership as expressed through the electoral process; and

It is submitted that adherence to a fully democratic process is essential if the Law Society is to govern itself responsibly in the public interest.

THEREFORE IT IS MOVED THAT EFFECTIVE IN THE 1992 TREASURER ELECTION, NO PERSON SHALL BE ELIGIBLE TO BE A TREASURER OF THE LAW SOCIETY WHO HAS NOT BEEN ELECTED AS BENCHER BY THE MEMBERSHIP IN THE MOST RECENT BENCHER ELECTION, AND THAT THE LAW SOCIETY PROPOSE TO THE ATTORNEY-GENERAL FOR ONTARIO AN AMENDMENT TO THE *LAW SOCIETY ACT* TO EFFECT THE FOREGOING.

Richard F. Tinsley  
Secretary

Osgoode Hall  
October 21, 1991









## NOTES





**The Law Society of Upper Canada**  
Osgoode Hall  
130 Queen Street West  
Toronto, Ontario M5H 2N6

